

elected, after Dec. 31, 1988, see section 4005(h)(1) of Pub. L. 100-647, set out as a note under section 143 of this title.

Amendment by section 5053(b) of Pub. L. 100-647 applicable, with certain exceptions, to obligations issued after Oct. 21, 1988, see section 5053(c) of Pub. L. 100-647, set out as a note under section 145 of this title.

Section 6177(c) of Pub. L. 100-647 provided that: “The amendments made by this section [amending this section] shall apply to bonds issued after the date of the enactment of this Act [Nov. 10, 1988].”

Section 6181(c) of Pub. L. 100-647 provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to bonds issued after the date of the enactment of this Act [Nov. 10, 1988].

“(2) ELECTION FOR OUTSTANDING BONDS.—Any issue of bonds other than private activity bonds outstanding as of the date of the enactment of this Act shall be allowed a 1-time election to apply the amendments made by subsection (b) [amending this section] to amounts deposited after such date in bona fide debt service funds of such bonds.

“(3) DEFINITION OF PRIVATE ACTIVITY BOND.—For purposes of this section and the last sentence of section 148(f)(4)(A) of the 1986 Code (as added by subsection (b)), the term ‘private activity bond’ shall include any qualified 501(c)(3) bond (as defined under section 145 of the 1986 Code).”

Section 6183(b) of Pub. L. 100-647 provided that: “The amendment made by subsection (a) [amending this section] shall apply to bonds issued after December 31, 1988.”

#### EFFECTIVE DATE

Subpart applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99-514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

#### EXTENSION OF PERIOD TO ELECT TO TERMINATE PERCENT PENALTY FOR BONDS ISSUED BEFORE NOVEMBER 5, 1990

Section 11701(j)(7) of Pub. L. 101-508 provided that: “In the case of a bond issued before the date of the enactment of this Act [Nov. 5, 1990], the period for making the election under section 148(f)(4)(C)(viii) of the Internal Revenue Code of 1986 (as added by this subsection) shall not expire before the date which is 180 days after such date of enactment.”

#### AMENDMENT TO ARBITRAGE REGULATIONS

Section 1301(c) of Pub. L. 99-514 provided that: “The provision in the Federal income tax regulations relating to the arbitrage requirements which permits a higher yield on acquired obligations if the issuer elects to waive the benefits of the temporary period provisions shall not apply to bonds issued after August 31, 1986.”

### § 149. Bonds must be registered to be tax exempt; other requirements

#### (a) Bonds must be registered to be tax exempt

##### (1) General rule

Nothing in section 103(a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any registration-required bond unless such bond is in registered form.

##### (2) Registration-required bond

For purposes of paragraph (1), the term “registration-required bond” means any bond other than a bond which—

- (A) is not of a type offered to the public,
- (B) has a maturity (at issue) of not more than 1 year, or

(C) is described in section 163(f)(2)(B).

#### (3) Special rules

##### (A) Book entries permitted

For purposes of paragraph (1), a book entry bond shall be treated as in registered form if the right to the principal of, and stated interest on, such bond may be transferred only through a book entry consistent with regulations prescribed by the Secretary.

##### (B) Nominees

The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of paragraph (1) where there is a nominee or chain of nominees.

#### (b) Federally guaranteed bond is not tax exempt

##### (1) In general

Section 103(a) shall not apply to any State or local bond if such bond is federally guaranteed.

##### (2) Federally guaranteed defined

For purposes of paragraph (1), a bond is federally guaranteed if—

(A) the payment of principal or interest with respect to such bond is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

(B) such bond is issued as part of an issue and 5 percent or more of the proceeds of such issue is to be—

(i) used in making loans the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), or

(ii) invested (directly or indirectly) in federally insured deposits or accounts, or

(C) the payment of principal or interest on such bond is otherwise indirectly guaranteed (in whole or in part) by the United States (or an agency or instrumentality thereof).

#### (3) Exceptions

##### (A) Certain insurance programs

A bond shall not be treated as federally guaranteed by reason of—

(i) any guarantee by the Federal Housing Administration, the Veterans' Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association,

(ii) any guarantee of student loans and any guarantee by the Student Loan Marketing Association to finance student loans,

(iii) any guarantee by the Bonneville Power Authority pursuant to the Northwest Power Act (16 U.S.C. 839d) as in effect on the date of the enactment of the Tax Reform Act of 1984, or

(iv) subject to subparagraph (E), any guarantee by a Federal home loan bank made in connection with the original issuance of a bond during the period beginning on the date of the enactment of this clause and ending on December 31, 2010 (or a renewal or extension of a guarantee so made).

**(B) Debt service, etc.**

Paragraph (1) shall not apply to—

- (i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,
- (ii) investments of a bona fide debt service fund,
- (iii) investments of a reserve which meet the requirements of section 148(d),
- (iv) investments in bonds issued by the United States Treasury, or
- (v) other investments permitted under regulations.

**(C) Exception for housing programs****(i) In general**

Except as provided in clause (ii), paragraph (1) shall not apply to—

- (I) a private activity bond for a qualified residential rental project or a housing program obligation under section 11(b) of the United States Housing Act of 1937,
- (II) a qualified mortgage bond, or
- (III) a qualified veterans' mortgage bond.

**(ii) Exception not to apply where bond invested in federally insured deposits or accounts**

Clause (i) shall not apply to any bond which is federally guaranteed within the meaning of paragraph (2)(B)(ii).

**(D) Loans to, or guarantees by, financial institutions**

Except as provided in paragraph (2)(B)(ii), a bond which is issued as part of an issue shall not be treated as federally guaranteed merely by reason of the fact that the proceeds of such issue are used in making loans to a financial institution or there is a guarantee by a financial institution unless such guarantee constitutes a federally insured deposit or account.

**(E) Safety and soundness requirements for Federal home loan banks**

Clause (iv) of subparagraph (A) shall not apply to any guarantee by a Federal home loan bank unless such bank meets safety and soundness collateral requirements for such guarantees which are at least as stringent as such requirements which apply under regulations applicable to such guarantees by Federal home loan banks as in effect on April 9, 2008.

**(4) Definitions**

For purposes of this subsection—

**(A) Treatment of certain entities with authority to borrow from United States**

To the extent provided in regulations prescribed by the Secretary, any entity with statutory authority to borrow from the United States shall be treated as an instrumentality of the United States. Except in the case of an exempt facility bond, a qualified small issue bond, and a qualified student loan bond, nothing in the preceding sentence

shall be construed as treating the District of Columbia or any possession of the United States as an instrumentality of the United States.

**(B) Federally insured deposit or account**

The term "federally insured deposit or account" means any deposit or account in a financial institution to the extent such deposit or account is insured under Federal law by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any similar federally chartered corporation.

**(c) Tax exemption must be derived from this title****(1) General rule**

Except as provided in paragraph (2), no interest on any bond shall be exempt from taxation under this title unless such interest is exempt from tax under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act.

**(2) Certain prior exemptions****(A) Prior exemptions continued**

For purposes of this title, notwithstanding any provision of this part, any bond the interest on which is exempt from taxation under this title by reason of any provision of law (other than a provision of this title) which is in effect on January 6, 1983, shall be treated as a bond described in section 103(a).

**(B) Additional requirements for bonds issued after 1983**

Subparagraph (A) shall not apply to a bond (not described in subparagraph (C)) issued after 1983 if the appropriate requirements of this part (or the corresponding provisions of prior law) are not met with respect to such bond.

**(C) Description of bond**

A bond is described in this subparagraph (and treated as described in subparagraph (A)) if—

- (i) such bond is issued pursuant to the Northwest Power Act (16 U.S.C. 839d), as in effect on July 18, 1984;
- (ii) such bond is issued pursuant to section 608(a)(6)(A) of Public Law 97-468, as in effect on the date of the enactment of the Tax Reform Act of 1986; or
- (iii) such bond is issued before June 19, 1984 under section 11(b) of the United States Housing Act of 1937.

**(d) Advance refundings****(1) In general**

Nothing in section 103(a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond issued as part of an issue described in paragraph (2), (3), or (4).

**(2) Certain private activity bonds**

An issue is described in this paragraph if any bond (issued as part of such issue) is issued to advance refund a private activity bond (other than a qualified 501(c)(3) bond).

**(3) Other bonds****(A) In general**

An issue is described in this paragraph if any bond (issued as part of such issue), hereinafter in this paragraph referred to as the "refunding bond", is issued to advance refund a bond unless—

- (i) the refunding bond is only—
  - (I) the 1st advance refunding of the original bond if the original bond is issued after 1985, or
  - (II) the 1st or 2nd advance refunding of the original bond if the original bond was issued before 1986,
- (ii) in the case of refunded bonds issued before 1986, the refunded bond is redeemed not later than the earliest date on which such bond may be redeemed at par or at a premium of 3 percent or less,
- (iii) in the case of refunded bonds issued after 1985, the refunded bond is redeemed not later than the earliest date on which such bond may be redeemed,
- (iv) the initial temporary period under section 148(c) ends—
  - (I) with respect to the proceeds of the refunding bond not later than 30 days after the date of issue of such bond, and
  - (II) with respect to the proceeds of the refunded bond on the date of issue of the refunding bond, and
- (v) in the case of refunded bonds to which section 148(e) did not apply, on and after the date of issue of the refunding bond, the amount of proceeds of the refunded bond invested in higher yielding investments (as defined in section 148(b)) which are nonpurpose investments (as defined in section 148(f)(6)(A)) does not exceed—
  - (I) the amount so invested as part of a reasonably required reserve or replacement fund or during an allowable temporary period, and
  - (II) the amount which is equal to the lesser of 5 percent of the proceeds of the issue of which the refunded bond is a part or \$100,000 (to the extent such amount is allocable to the refunded bond).

**(B) Special rules for redemptions****(i) Issuer must redeem only if debt service savings**

Clause (ii) and (iii) of subparagraph (A) shall apply only if the issuer may realize present value debt service savings (determined without regard to administrative expenses) in connection with the issue of which the refunding bond is a part.

**(ii) Redemptions not required before 90th day**

For purposes of clauses (ii) and (iii) of subparagraph (A), the earliest date referred to in such clauses shall not be earlier than the 90th day after the date of issuance of the refunding bond.

**(4) Abusive transactions prohibited**

An issue is described in this paragraph if any bond (issued as part of such issue) is issued to

advance refund another bond and a device is employed in connection with the issuance of such issue to obtain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates.

**(5) Advance refunding**

For purposes of this part, a bond shall be treated as issued to advance refund another bond if it is issued more than 90 days before the redemption of the refunded bond.

**(6) Special rules for purposes of paragraph (3)**

For purposes of paragraph (3), bonds issued before the date of the enactment of this subsection shall be taken into account under subparagraph (A)(i) thereof except—

- (A) a refunding which occurred before 1986 shall be treated as an advance refunding only if the refunding bond was issued more than 180 days before the redemption of the refunded bond, and
- (B) a bond issued before 1986, shall be treated as advance refunded no more than once before March 15, 1986.

**(7) Regulations**

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

**(e) Information reporting****(1) In general**

Nothing in section 103(a) or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond unless such bond satisfies the requirements of paragraph (2).

**(2) Information reporting requirements**

A bond satisfies the requirements of this paragraph if the issuer submits to the Secretary, not later than the 15th day of the 2d calendar month after the close of the calendar quarter in which the bond is issued (or such later time as the Secretary may prescribe with respect to any portion of the statement), a statement concerning the issue of which the bond is a part which contains—

- (A) the name and address of the issuer,
- (B) the date of issue, the amount of net proceeds of the issue, the stated interest rate, term, and face amount of each bond which is part of the issue, the amount of issuance costs of the issue, and the amount of reserves of the issue,
- (C) where required, the name of the applicable elected representative who approved the issue, or a description of the voter referendum by which the issue was approved,
- (D) the name, address, and employer identification number of—
  - (i) each initial principal user of any facility provided with the proceeds of the issue,
  - (ii) the common parent of any affiliated group of corporations (within the meaning of section 1504(a)) of which such initial principal user is a member, and
  - (iii) if the issue is treated as a separate issue under section 144(a)(6)(A), any person treated as a principal user under section 144(a)(6)(B),

(E) a description of any property to be financed from the proceeds of the issue,

(F) a certification by a State official designated by State law (or, where there is no such official, the Governor) that the bond meets the requirements of section 146 (relating to cap on private activity bonds), if applicable, and

(G) such other information as the Secretary may require.

Subparagraphs (C) and (D) shall not apply to any bond which is not a private activity bond. The Secretary may provide that certain information specified in the 1st sentence need not be included in the statement with respect to an issue where the inclusion of such information is not necessary to carry out the purposes of this subsection.

**(3) Extension of time**

The Secretary may grant an extension of time for the filing of any statement required under paragraph (2) if the failure to file in a timely fashion is not due to willful neglect.

**(f) Treatment of certain pooled financing bonds**

**(1) In general**

Section 103(a) shall not apply to any pooled financing bond unless, with respect to the issue of which such bond is a part, the requirements of paragraphs (2), (3), (4), and (5) are met.

**(2) Reasonable expectation requirement**

**(A) In general**

The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 30 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.

**(B) Certain factors may not be taken into account in determining expectations**

Expectations as to changes in interest rates or in the provisions of this title (or in the regulations or rulings thereunder) may not be taken into account in determining whether expectations are reasonable for purposes of this paragraph.

**(C) Net proceeds**

For purposes of subparagraph (A), the term “net proceeds” has the meaning given such term by section 150 but shall not include proceeds used to finance issuance costs and shall not include proceeds necessary to pay interest (during such period) on the bonds which are part of the issue.

**(D) Refunding bonds**

For purposes of subparagraph (A), in the case of a refunding bond, the date of issuance

taken into account is the date of issuance of the original bond.

**(3) Cost of issuance payment requirements**

The requirements of this paragraph are met with respect to an issue if—

(A) the payment of legal and underwriting costs associated with the issuance of the issue is not contingent, and

(B) at least 95 percent of the reasonably expected legal and underwriting costs associated with the issuance of the issue are paid not later than the 180th day after the date of the issuance of the issue.

**(4) Written loan commitment requirement**

**(A) In general**

The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 30 percent of the net proceeds of such issue.

**(B) Exception**

Subparagraph (A) shall not apply with respect to any issuer which—

(i) is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State, or

(ii) is a State-created entity providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

**(5) Redemption requirement**

The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

(A) the amount required to be used under such clause, over

(B) the amount actually used by the close of such period,

to redeem outstanding bonds within 90 days after the end of such period.

**(6) Pooled financing bond**

For purposes of this subsection—

**(A) In general**

The term “pooled financing bond” means any bond issued as part of an issue more than \$5,000,000 of the proceeds of which are reasonably expected (at the time of the issuance of the bonds) to be used (or are intentionally used) directly or indirectly to make or finance loans to 2 or more ultimate borrowers.

**(B) Exceptions**

Such term shall not include any bond if—

(i) section 146 applies to the issue of which such bond is a part (other than by reason of section 141(b)(5)) or would apply but for section 146(i), or

(ii) section 143(l)(3) applies to such issue.

**(7) Definition of loan; treatment of mixed use issues****(A) Loan**

For purposes of this subsection, the term “loan” does not include—

(i) any loan which is a nonpurpose investment (within the meaning of section 148(f)(6)(A), determined without regard to section 148(b)(3)), and

(ii) any use of proceeds by an agency of the issuer unless such agency is a political subdivision or instrumentality of the issuer.

**(B) Portion of issue to be used for loans treated as separate issue**

If only a portion of the proceeds of an issue is reasonably expected (at the time of issuance of the bond) to be used (or is intentionally used) as described in paragraph (6)(A), such portion and the other portion of such issue shall be treated as separate issues for purposes of determining whether such portion meets the requirements of this subsection.

**(g) Treatment of hedge bonds****(1) In general**

Section 103(a) shall not apply to any hedge bond unless, with respect to the issue of which such bond is a part—

(A) the requirement of paragraph (2) is met, and

(B) the requirement of subsection (f)(3) is met.

**(2) Reasonable expectations as to when proceeds will be spent**

An issue meets the requirement of this paragraph if the issuer reasonably expects that—

(A) 10 percent of the spendable proceeds of the issue will be spent for the governmental purposes of the issue within the 1-year period beginning on the date the bonds are issued,

(B) 30 percent of the spendable proceeds of the issue will be spent for such purposes within the 2-year period beginning on such date,

(C) 60 percent of the spendable proceeds of the issue will be spent for such purposes within the 3-year period beginning on such date, and

(D) 85 percent of the spendable proceeds of the issue will be spent for such purposes within the 5-year period beginning on such date.

**(3) Hedge bond****(A) In general**

For purposes of this subsection, the term “hedge bond” means any bond issued as part of an issue unless—

(i) the issuer reasonably expects that 85 percent of the spendable proceeds of the issue will be used to carry out the governmental purposes of the issue within the 3-year period beginning on the date the bonds are issued, and

(ii) not more than 50 percent of the proceeds of the issue are invested in nonpur-

pose investments (as defined in section 148(f)(6)(A)) having a substantially guaranteed yield for 4 years or more.

**(B) Exception for investment in tax-exempt bonds not subject to minimum tax****(i) In general**

Such term shall not include any bond issued as part of an issue 95 percent of the net proceeds of which are invested in bonds—

(I) the interest on which is not includible in gross income under section 103, and

(II) which are not specified private activity bonds (as defined in section 57(a)(5)(C)).

**(ii) Amounts in bona fide debt service fund**

Amounts in a bona fide debt service fund shall be treated as invested in bonds described in clause (i).

**(iii) Amounts held pending reinvestment or redemption**

Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i).

**(C) Exception for refunding bonds****(i) In general**

A refunding bond shall be treated as meeting the requirements of this subsection only if the original bond met such requirements.

**(ii) General rule for refunding of pre-effective date bonds**

A refunding bond shall be treated as meeting the requirements of this subsection if—

(I) this subsection does not apply to the original bond,

(II) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue, and

(III) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

**(iii) Refunding of pre-effective date bonds entitled to 5-year temporary period**

A refunding bond shall be treated as meeting the requirements of this subsection if—

(I) this subsection does not apply to the original bond,

(II) the issuer reasonably expected that 85 percent of the spendable proceeds of the issue of which the original bond is a part would be used to carry out the governmental purposes of the issue within the 5-year period beginning on the date the original bonds were issued but did not reasonably expect that 85 percent of such proceeds would be so spent within the 3-year period beginning on such date, and

(III) at least 85 percent of the spendable proceeds of the original issue (and

all other prior original issues issued to finance the governmental purposes of such issue) were spent before the date the refunding bonds are issued.

#### (4) Special rules

For purposes of this subsection—

##### (A) Construction period in excess of 5 years

The Secretary may, at the request of any issuer, provide that the requirement of paragraph (2) shall be treated as met with respect to the portion of the spendable proceeds of an issue which is to be used for any construction project having a construction period in excess of 5 years if it is reasonably expected that such proceeds will be spent over a reasonable construction schedule specified in such request.

##### (B) Rules for determining expectations

The rules of subsection (f)(2)(B) shall apply.

#### (5) Regulations

The Secretary may prescribe regulations to prevent the avoidance of the rules of this subsection, including through the aggregation of projects within a single issue.

(Added Pub. L. 99-514, title XIII, § 1301(b), Oct. 22, 1986, 100 Stat. 2646; amended Pub. L. 100-647, title I, § 1013(a)(20)–(22), title V, § 5051(a), Nov. 10, 1988, 102 Stat. 3542, 3676; Pub. L. 101-239, title VII, § 7651(a), Dec. 19, 1989, 103 Stat. 2383; Pub. L. 104-188, title I, § 1704(b)(1), Aug. 20, 1996, 110 Stat. 1878; Pub. L. 109-222, title V, § 508(a), (b), (d)(1), (2), May 17, 2006, 120 Stat. 361, 362; Pub. L. 110-289, div. C, title I, § 3023(a), (b), July 30, 2008, 122 Stat. 2894, 2895.)

#### REFERENCES IN TEXT

The Northwest Power Act, referred to in subssecs. (b)(3)(A)(iii) and (c)(2)(C)(i), probably means the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501, Dec. 5, 1980, 94 Stat. 2697, which is classified principally to chapter 12H (§839 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 839 of Title 16 and Tables.

The date of the enactment of the Tax Reform Act of 1984, referred to in subsec. (b)(3)(A)(iii), is the date of enactment of Pub. L. 98-369, div. A, which was approved July 18, 1984.

The date of the enactment of this clause, referred to in subsec. (b)(3)(A)(iv), is the date of enactment of Pub. L. 110-289, which was approved July 30, 2008.

Section 11(b) of the United States Housing Act of 1937, referred to in subssecs. (b)(3)(C)(i)(I) and (c)(2)(C)(iii), is classified to section 1473i(b) of Title 42, The Public Health and Welfare.

Section 608(a)(6)(A) of Pub. L. 97-468, referred to in subsec. (c)(2)(C)(ii), is classified to section 1207(a)(6)(A) of Title 45, Railroads.

The date of the enactment of the Tax Reform Act of 1986, referred to in subsec. (c)(2)(C)(ii), is the date of enactment of Pub. L. 99-514, which was approved Oct. 22, 1986.

The date of the enactment of this subsection, referred to in subsec. (d)(6), is the date of enactment of Pub. L. 99-514, which was approved Oct. 22, 1986.

#### AMENDMENTS

2008—Subsec. (b)(3)(A)(iv). Pub. L. 110-289, § 3023(a), added cl. (iv).

Subsec. (b)(3)(E). Pub. L. 110-289, § 3023(b), added subpar. (E).

2006—Subsec. (f)(1). Pub. L. 109-222, § 508(d)(1), substituted “paragraphs (2), (3), (4), and (5)” for “paragraphs (2) and (3)”.

Subsec. (f)(2)(A). Pub. L. 109-222, § 508(a), amended subpar. (A) generally. Prior to amendment, text read as follows: “The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that as of the close of the 3-year period beginning on the date of issuance of the issue, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers.”

Subsec. (f)(4) to (6). Pub. L. 109-222, § 508(b), added pars. (4) and (5) and redesignated former par. (4) as (6). Former par. (5) redesignated (7).

Subsec. (f)(7). Pub. L. 109-222, § 508(b), redesignated par. (5) as (7).

Subsec. (f)(7)(B). Pub. L. 109-222, § 508(d)(2), substituted “paragraph (6)(A)” for “paragraph (4)(A)”.

1996—Subsec. (g)(3)(B)(iii). Pub. L. 104-188 amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “INVESTMENT EARNINGS HELD PENDING REINVESTMENT.—Investment earnings held for not more than 30 days pending reinvestment shall be treated as invested in bonds described in clause (i).”

1989—Subsec. (g). Pub. L. 101-239 added subsec. (g).

1988—Subsec. (b)(3)(A)(iii). Pub. L. 100-647, § 1013(a)(20), struck out “with respect to any bond issued before July 1, 1989” after “1984”.

Subsec. (b)(4)(A). Pub. L. 100-647, § 1013(a)(21), substituted “and a qualified student loan bond” for “a qualified student loan bond, and a qualified redevelopment bond”.

Subsec. (e)(3). Pub. L. 100-647, § 1013(a)(22), substituted “the failure to file in a timely fashion is not due to willful neglect” for “there is reasonable cause for the failure to file such statement in a timely fashion”.

Subsec. (f). Pub. L. 100-647, § 5051(a), added subsec. (f).

#### CHANGE OF NAME

Reference to Veterans’ Administration deemed to refer to Department of Veterans Affairs pursuant to section 10 of Pub. L. 100-527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans’ Benefits.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-289, div. C, title I, § 3023(c), July 30, 2008, 122 Stat. 2895, provided that: “The amendments made by this section [amending this section] shall apply to guarantees made after the date of the enactment of this Act [July 30, 2008].”

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-222 applicable to bonds issued after May 17, 2006, see section 508(e) of Pub. L. 109-222, set out as a note under section 54 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 1704(b)(2) of Pub. L. 104-188 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989 [Pub. L. 101-239].”

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 7651(b) of Pub. L. 101-239 provided that: “(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) [amending this section] shall apply to bonds issued after September 14, 1989.

“(2) BONDS SOLD BEFORE SEPTEMBER 15, 1989.—The amendment made by subsection (a) shall not apply to any bond sold before September 15, 1989, and issued before October 15, 1989.

“(3) BONDS WITH RESPECT TO WHICH PRELIMINARY OFFERING MATERIALS MAILED.—The amendment made by subsection (a) shall not apply to any issue issued after the date of the enactment of this Act [Dec. 19, 1989] if

the preliminary offering materials with respect to such issue were mailed (or otherwise delivered) to members of the underwriting syndicate before September 15, 1989.

“(4) CERTAIN OTHER BONDS.—In the case of a bond issued before January 1, 1991, with respect to which official action was taken (or a series of official actions were taken), or other comparable preliminary approval was given, before November 18, 1989, demonstrating an intent to issue such bonds in a maximum specified amount for such issue or with a maximum specified amount of net proceeds of such issue, the issuer may elect to apply section 149(g)(2) of the Internal Revenue Code of 1986 (as added by this section) by substituting ‘15 percent’ for ‘10 percent’ in subparagraph (A) and ‘50 percent’ for ‘60 percent’ in subparagraph (C).

“(5) BONDS ISSUED TO FINANCE SELF-INSURANCE FUNDS.—The amendment made by subsection (a) shall not apply to any bonds issued before July 1, 1990, to finance a self-insurance fund if official action was taken (or a series of official actions were taken), or other comparable preliminary approval was given, before September 15, 1989, demonstrating an intent to issue such bonds in a maximum specified amount for such issue or with a maximum specified amount of net proceeds of such issue.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1013(a)(20)–(22) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Section 5051(b) of Pub. L. 100–647 provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to bonds issued after October 21, 1988.

“(2) SPECIAL RULE FOR REFUNDING BONDS.—In the case of a bond issued to refund a bond issued before October 22, 1988—

“(A) if the 3-year period described in section 149(f)(2)(A) of the 1986 Code would (but for this paragraph) expire on or before October 22, 1989, such period shall expire on October 21, 1990, and

“(B) if such period expires after October 22, 1989, the portion of the proceeds of the issue of which the refunded bond is a part which is available (on the date of issuance of the refunding issue) to provide loans shall be treated as proceeds of a separate issue (issued after October 21, 1988) for purposes of applying section 149(f) of the 1986 Code.”

#### EFFECTIVE DATE

Subsec. (e) applicable to bonds issued after Dec. 31, 1986, see section 1311(d) of Pub. L. 99–514, as amended, set out as an Effective Date; Transitional Rules note under section 141 of this title.

#### TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation abolished and its functions transferred, see sections 401 to 406 of Pub. L. 101–73 set out as a note under section 1437 of Title 12, Banks and Banking.

#### SUBPART C—DEFINITIONS AND SPECIAL RULES

Sec.

150. Definitions and special rules.

### § 150. Definitions and special rules

#### (a) General rule

For purposes of this part—

##### (1) Bond

The term “bond” includes any obligation.

#### (2) Governmental unit not to include Federal Government

The term “governmental unit” does not include the United States or any agency or instrumentality thereof.

#### (3) Net proceeds

The term “net proceeds” means, with respect to any issue, the proceeds of such issue reduced by amounts in a reasonably required reserve or replacement fund.

#### (4) 501(c)(3) organization

The term “501(c)(3) organization” means any organization described in section 501(c)(3) and exempt from tax under section 501(a).

#### (5) Ownership of property

Property shall be treated as owned by a governmental unit if it is owned on behalf of such unit.

#### (6) Tax-exempt bond

The term “tax-exempt” means, with respect to any bond (or issue), that the interest on such bond (or on the bonds issued as part of such issue) is excluded from gross income.

#### (b) Change in use of facilities financed with tax-exempt private activity bonds

##### (1) Mortgage revenue bonds

###### (A) In general

In the case of any residence with respect to which financing is provided from the proceeds of a tax-exempt qualified mortgage bond or qualified veterans’ mortgage bond, if there is a continuous period of at least 1 year during which such residence is not the principal residence of at least 1 of the mortgagors who received such financing, then no deduction shall be allowed under this chapter for interest on such financing which accrues on or after the date such period began and before the date such residence is again the principal residence of at least 1 of the mortgagors who received such financing.

###### (B) Exception

Subparagraph (A) shall not apply to the extent the Secretary determines that its application would result in undue hardship and that the failure to meet the requirements of subparagraph (A) resulted from circumstances beyond the mortgagor’s control.

##### (2) Qualified residential rental projects

In the case of any project for residential rental property—

(A) with respect to which financing is provided from the proceeds of any private activity bond which, when issued, purported to be a tax-exempt bond described in paragraph (7) of section 142(a), and

(B) which does not meet the requirements of section 142(d),

no deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the 1st day of the taxable year in which such project fails to meet such requirements and ending on the date such project meets such requirements. If the provisions of prior law cor-